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Asbury Park Fishing Club
Bayberry Garden Club
Bayshore Regional Watershed Council
Bayside Saltwater Flyfishers
Belford Seafood Co-op
Belmar Fishing Club
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Berkeley Shores Homeowners Civic Association
Cape May Environmental Commission
Central Jersey Anglers
Citizens Conservation Council of Ocean County
Clean Air Campaign, NY
Coalition Against Toxics
Coalition for Peace & Justice/Unplug Salem
Coast Alliance



*Ocean Advocacy
Since 1984*

Clean Ocean Action

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December 19, 2005

Howard B. Tompkins, Chief
NJ Department of Environmental Protection
Bureau of Point Source Permitting, Region 1
P.O. Box 029
Trenton, NJ 08625

RE: Draft Surface Water Master General Permit for Beneficial Reuse with restricted access applications; NJPDES Permit No. NJ0142581

Dear Mr. Tompkins:

Clean Ocean Action is a broad-based coalition of conservation, environmental, fishing, boating, diving, student, surfing, women's, business, service, and community groups. Our goal is to improve the degraded water quality of the marine waters off the New Jersey/New York coast. It is Clean Ocean Action's (hereinafter "COA") mission to investigate, review, and question proposals that may effect ocean water quality in the NY/NJ Bight.¹ For this reason, COA submits the below comments on the Draft Surface Water Master General Permit for Beneficial Reuse with restricted access applications.

As we have mentioned previously, COA urges the Department to establish a clear Vision Statement, a Program Director, and a formal regulatory structure *before* beneficial reuse projects proceed. The implementation of a General Permit prior to the establishment of a Vision Statement and regulations is especially egregious since there are no underlying publicly-noticed procedures or goals for beneficial reuse. However, since projects are going forth at a rapid rate without implementation of these suggestions, COA submits these specific comments on the General Permit in an effort to provide greater protection of coastal water quality.

COA has previously discussed several of the outstanding issues raised by the issuance of this General Permit (GP) with the Department via letters (July 30, 2004) and meetings (August 4, 2005). Specifically:

1. **List of Applications must not change.** The list of beneficial reuse applications cannot include an application that is not currently listed (i.e. an application other than sanitary sewer jetting, street sweeping, sewage treatment

¹ Visit <http://www.cleanoceanaction.org> for more information.

Coastal Jersey Parrot Head Club
Communication Workers of America, Local 1034
Concerned Businesses of COA
Concerned Citizens of Bensenville
Concerned Citizens of COA
Concerned Citizens of Montauk
Eastern Monmouth Chamber of Commerce
Fisher's Island Conservancy
Fisheries Defense Fund
Fishermen's Dock Cooperative, Pt. Pleasant
Friends of Island Beach State Park
Friends of Liberty State Park, NJ
Friends of the Boardwalk, NY
Garden Club of Englewood
Garden Club of Fair Haven
Garden Club of Long Beach Island
Garden Club of Middletown
Garden Club of Morristown
Garden Club of Navesink
Garden Club of New Jersey
Garden Club of New Vernon
Garden Club of Oceanport
Garden Club of Princeton
Garden Club of Ridgewood
Garden Club of Rumson
Garden Club of Short Hills
Garden Club of Shrewsbury
Garden Club of Spring Lake
Garden Club of Washington Valley
Great Egg Harbor Watershed Association
Highlands Business Partnership
Highlands Chamber of Commerce
Hudson River Fishermen's Association/NJ
Jersey Coast Shark Anglers
Jersey Shore Captains Association
Jersey Shore Running Club
Junior League of Monmouth County
Keyport Environmental Commission
Kiwans Club of Manasquan
Kiwans Club of Shadow Lake Village
Leonardo Party & Pleasure Boat Association
Leonardo Tax Payers Association
Main Street Wildwood
Marine Trades Association of NJ
Monmouth Conservation Foundation
Monmouth County Association of Realtors
Monmouth County Audubon Society
Monmouth County Friends of Clearwater
Montauk Fisherman's Emergency Fund
National Coalition for Marine Conservation
Natural Resources Protective Association, NY
NJ Beach Buggy Association
NJ Commercial Fishermen's Association
NJ Environmental Federation
NJ Environmental Lobby
NJ Main Ship Owners Group
NJ Marine Educators Association
NJ PIRG Citizen Lobby
Nottingham Hunting & Fishing Club, NJ
NYC Sea Gypsies
NY Marine Educators Association
NY/NJ Baykeeper
Ocean Wreck Divers, NJ
PaddleOut.org
Piscataway Saltwater Sportsmen Club
Raritan Riverkeeper
Religious On Water
Riverside Drive Association
Rotary Club of Long Branch
Rotary District #7510 - Interact
Saint George's by the River Church, NJ
Saltwater Anglers of Bergen County
Sandy Hook Bay Anglers
Save Barnegat Bay
Save the Bay, NJ
SEAS Monmouth
Seaweeders Garden Club
Shark Research Institute
Shark River Cleanup Coalition
Shark River Surf Anglers
Shore Adventure Club
Shore Surf Club
Sierra Club, Shore Chapter
Soroptimist Club of Cape May County
South Jersey Dive Club
South Monmouth Board of Realtors
Staten Island Friends of Clearwater
Strathmere Fishing & Environmental Club
Surfers' Environmental Alliance
Surfrider Foundation, Jersey Shore Chapter
TACK I, MA
Terra Nova Garden Club
Unitarian Universalist Congregation
of Mon. County
United Boatmen of NY/NJ
United Bowhunters of NJ
Volunteer Friends of Boaters
WATERSPIRIT
Women's Club of Brick Township
Women's Club of Keyport
Women's Club of Long Branch
Women's Club of Merchantville
Zen Society, NJ

plant washdown, fire protection, irrigation of landscaping within a secured perimeter, and certain industrial processes (eg. non-contact cooling water and boiler make-up water)), even if such additional applications are similar in nature. General Permits are inherently broad and allow the permittee to escape the usual public participation of the individual permitting processes. Adding other applications to a GP without warning or notice to the public is unjustified. Additional applications should only be added when the GP is re-noticed for public comment.

2. **The deadline for public comment was not adequately provided.** The public notice for the 2000 permit renewal of this permit stated “the public comment period will close thirty days after its appearance in the newspaper.” The notice includes a list of 19 newspapers. The relevant date (i.e. the date that determined the end of the public comment period) - the date of newspaper publication - was not provided, either explicitly or broadly. This instruction leaves ambiguity about the comment deadline. Is the deadline 30 days after the last newspaper publishes the notice or 30 days after the first newspaper publishes the notice? Do all of the newspapers publish the notice on the same date? Only after contacting the permit manager did COA obtain the comment deadline date. The notice also states that the draft permit action will appear in the November 17, 2005 DEP Bulletin. However, this date serves no purpose if the comment deadline is set by the newspaper publication.

The language regarding the timing of the public comment period undermines the ability of the public to adequately participate in the permit renewal process since the deadline for comment is unclear. Interested parties are easily misled as to the true due date and thus could miss their opportunity to comment. Should the relevant date remain the date of newspaper publication, such date must be included in the Draft Permit. If such date cannot be included in the draft permit, COA strongly suggests that the Department instead close the comment period thirty days after appearance in either the newspaper or bulletin, whichever is later. This ensures that interested parties can submit comments 30 days after publication in the DEP Bulletin and still meet the deadline, regardless of the newspaper publication date.

3. **Compliance with the most current version of the *Technical Manual for Reclaimed Water for Beneficial Reuse* and relevant laws must be mandatory.** The GP does not clearly state that the permittee shall comply with the most current version of the *Technical Manual for Reclaimed Water for Beneficial Reuse* (hereafter, “Manual”) or any requirements or regulations put into use or enacted after the permit issuance. Any authorizations or permits granted for beneficial reuse should clearly state that the permittee must comply with any modifications to guidelines in the Manual or any requirements or regulations put into use or enacted after the permit issuance. This is especially important in light of the fact that the Manual is constantly being updated and changed in response to comments and technical/scientific improvements (in lieu of regulations clearly outlining reuse methods and restrictions) and the potential for new regulations.

- a. COA spoke with DEP staff on July 29, 2004 about the general permit on this issue. DEP's approach, at that time, was to require compliance with the manual at the time of the permit issuance. COA strongly urges DEP to include a condition in the general permit requiring that permits or authorizations be consistent with any changes to the Manual when guidelines are changed. This will ensure that there are no lapses in environmental protection. For example, in the permit and fact sheet, DEP could state that "As the Technical Manual is updated during the lifetime of this general permit and its authorizations, permittees must comply with the most recent version of the Technical Manual."
4. **Enterococcus levels vs. fecal coliform.** COA remains concerned about enterococcus levels in marine discharges of wastewater, and by extension, levels in wastewater to be reused. Some facilities discharge elevated levels of enterococcus. For the purposes of beneficial reuse, these levels raise concerns about pathogens similarly resistant to chlorination. What is the Department's plan for ensuring compliance with water quality standards for uses where run-off to marine waters may occur?

In addition, although the permit includes a fecal coliform limit of "no greater than 200 colonies/100 ml as a monthly geometric mean and 400 colonies/100 ml as a weekly geometric mean in accordance with NJAC 714A-12.5," this may not be adequate for reuse applications that discharge to marine waters. Fecal coliform limits are used for freshwater and shellfish, not ocean water quality. COA urges the Department to reconsider the necessary water quality parameters, depending on the type of application and the type of water to which the reused water may be discharged. For example, reused water for cooling water intake structures could be discharged to marine waters and should contain an enterococcus limit.

5. **"Other Pollutants."** The draft general permit states that "water to be beneficially reused shall be in compliance with all effluent limitations contained in the permittee's individual NJPDES discharge permit..." As discussed with DEP staff, COA is concerned that Water Quality Based Effluent Limits (WQBELs) for priority pollutants in ocean discharges may not be protective for land-based irrigation purposes. COA strongly suggests that this section read "water to be beneficially reused shall be in compliance with all effluent limitations contained in the permittee's individual NJPDES discharge permit and EPA's guidance manual *Guidelines for Water Reuse*."
6. **Monitoring Frequency.** Frequency of monitoring is unclear for certain parameters, such as Nitrogen. Priority pollutants should be monitored on a monthly basis to ensure that uses are protective of human health and the environment.
7. **Enforcement.** Enforcement measures are not accountable. Permit requirements depend on self-reporting by a facility. This is concerning since some requirements demand careful oversight by facility employees and there does not appear to be a system for accountability. For example: How will DEP ensure that ponding limitations in restricted access irrigation are enforced? How does DEP define "times of least contact" and enforce

these times? Accountability and enforcement processes could be established in beneficial reuse regulations.

8. **Record-keeping.** Records, such as the list of treated wastewater users, should also be made available to the public upon request, rather than only to the Department. Records should also be made available electronically.

Should you have any questions, please call.

Sincerely,

Cindy Zipf
Executive Director

Nicole Simmons, J.D.
Water Policy Analyst

